BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

STATE OF CALIFORNIA

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Application of Pacific Gas and Electric Company (U 39 E) for Approval of the Retirement of Diablo Canyon Power Plant, Implementation of the Joint Proposal, and Recovery of Associated Costs through Proposed Ratemaking Mechanisms.	Application 16-08-006 (Filed August 11,2016)

PROTEST OF THE CITY AND COUNTY OF SAN FRANCISCO

Pursuant to Rule 2.6 of the Commission Rules of Practice and Procedures, the City and County of San Francisco ("San Francisco" or "the City") respectfully submits this protest to the application of Pacific Gas and Electric Company ("PG&E") for Approval of the Retirement of Diablo Canyon Power Plant ("Diablo Canyon"), Implementation of the Joint Proposal, and Recovery of Associated Costs through Proposed Ratemaking Mechanisms.

San Francisco does not oppose the Commission's consideration of the closure of Diablo Canyon; PG&E's testimony indicates that the plant will not be economic over the next decade and beyond[1] and that the plant is not needed for system or local reliability. San Francisco recognizes that such closure must be accomplished in an orderly fashion without adversely affecting California's achievement of its aggressive greenhouse gas reduction goals. However, San Francisco is very concerned that if approved, PG&E's application would severely impinge on the ability of Community Choice Aggregators ("CCAs") to make their own procurement decisions; would improperly circumvent planning and cost-recovery proceedings that are required by law and currently underway at the Commission; and would assure PG&E generous cost-recovery for proposals that have not been shown to be reasonable. In light of the many

[1] PG&E Testimony for Application (A.16-08-006), at p.1-6.

complex issues raised by PG&E's application, and the very large costs for which PG&E seeks iron-cast cost-recovery approval, San Francisco objects to PG&E request for an expedited hearing schedule.

A. San Francisco's Interest

San Francisco has an interest in this proceeding as a municipal utility, a community choice aggregator ("CCA") and as an advocate for customers within its boundaries, including its constituents who are PG&E bundled customers. As the retirement of Diablo Canyon and the proposals contained in this application could have long-lasting impacts for both bundled and unbundled ratepayers, San Francisco seeks to ensure that its interests are not prejudiced by PG&E's application. No other party is situated to represent San Francisco's unique interests.

B. PG&E's Proposal to Close Diablo Canyon

PG&E proposes to retire Diablo Canyon. PG&E's testimony indicates that the plant will not be economical over the next decade and beyond;[2] with projected levelized costs to generate power of $149/MWh in 2030. PG&E also states that Diablo Canyon is not needed for system or local reliability according to the last Long Term Procurement Plan ("LTPP") and Transmission Procurement Plan ("TPP"). Additionally, PG&E asserts that Diablo Canyon is inflexible, sits near a fault line, and would require significant retrofits by 2024 to comply with the California Once-Through-Cooling laws and regulations.[3]

Each of these is a legitimate reason to explore retiring Diablo Canyon. San Francisco agrees that the issue of retiring Diablo Canyon is ripe for consideration.

[2] PG&E Testimony for Application (A.16-08-006), at p. 1-6.

[3] PG&E Testimony for Application (A.16-08-006), Chapter 2 (see 2-22 for costs).

C. The Commission Should Reject All Elements Of The Application That Request Authority To Procure Replacement Resources And Approval Of Associated Cost-Recovery

The primary purpose of PG&E's application, ostensibly, is to retire Diablo Canyon through an orderly transition process. Unfortunately, PG&E's application goes significantly further and seeks authority for procurement and approval of cost-recovery in a manner that is premature, inconsistent with statutory requirements and Commission policies, and duplicative of issues being considered in other proceedings.

1. PG&E Has Not Justified The Urgency Of Its Request

From San Francisco's initial review of the application, PG&E has not provided a sound reason for urgent cost-recovery for at least $1,300,000,000 in energy efficiency resources on a non-bypassable basis. The proposed resources will not be needed until the 2024 to 2045 time frame. The closure of Diablo Canyon does not necessitate emergency purchases of replacement power, as occurred with the unexpected closure of the San Onofre Nuclear Generating Station. In fact, PG&E's proposed closure timeline gives the Commission ample time to identify the need to procure new resources and determine the role of all load serving entities in meeting California's future energy needs. The Commission's existing processes are already considering many of these issues and are the appropriate venues to do so.

It is important to note that technological capabilities and costs will change over time. It would be imprudent for the Commission to approve, on a non-bypassable basis, procurement and cost-recovery so far in advance of the retirement of the relevant units. This is an additional reason why the Commission, therefore, should reject PG&E's request for such premature cost-recovery assurances.

2. PG&E Proposes Three Tranches Of Procurement, All Of Which Seek To Circumvent The Commission's Existing Procurement And Cost-Recovery Procedures

From San Francisco's initial review of the application, PG&E has not justified the departures from the Commission's well-established procurement and cost-recovery policies and

procedures. PG&E proposes three tranches of procurement to replace the Diablo Canyon resources. The first tranche seeks authority for substantial procurement of energy efficiency activities and related cost-recovery approval. The request is duplicative of the Commission's proceeding implementing SB 350.

SB 350 set forth requirements for investor owned electric utilities to procure long-term energy resources through long term procurement planning and integrated resource planning processes respectively[4]. The Commission is currently implementing these legislative requirements in Rulemaking 16-02-007.[5] As the Order Instituting Rulemaking states:

> SB 350 requires the Commission to adopt a process for all LSEs to file integrated resource plans (IRPs), and periodically update them, to ensure that LSEs do the following": "Meet the greenhouse gas (GHG) emissions reduction targets established by the CARB for the electricity sector"…"Double the energy efficiency savings in electricity and natural gas final end uses of retail customers through energy efficiency and conservation by 2030"…[and] Enable each electrical corporation to fulfill its obligations to serve its customers at just and reasonable rates" and "minimize impacts on ratepayers' bills"[6]

PG&E's application touches on each of the above issues already being considered in that rulemaking. Pursuant to SB 350, California load serving entities must complete their integrated resource plans by 2017. All of PG&E's proposed procurement is scheduled to occur after this date. Thus, there is no reason to consider at this time and in this application, PG&E's request for approval of its procurement activities and the resulting costs.

Additionally, R.16-02-007 clearly envisions that "to the extent necessary, [it would] update, and review individual IOU bundled procurement plans required by § 454.5"[7] particularly

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[4] Cal. Pub. Util. Code §§ 454.5 and 454.52.

[5] Joint Scoping Memo and Ruling of Assigned Commissioner and Assigned Administrative Law Judge, filed February 11, 2016 in R.16-02-007, p 3-12.

[6] Order Institution Rulemaking 16-02-007, p. 9.

[7] *Id.* at p. 12-13.

"to address any specific issues that arise that could potentially impact grid reliability, costs, or GHG reduction efforts and that require our timely action."[8] Thus, the Commission concluded that the Rulemaking would "include long-term system and local reliability needs in the scope of this proceeding, and continue to assess those needs on an ongoing basis."[9] Further, "if circumstances change (as they did with the unexpected retirement of SONGS in 2013), it may become necessary to issue a Ruling to allow the Commission to consider any reliability issues that arise.[10] Thus, the rulemaking actually contemplates the type of request PG&E is making here.

That rulemaking also includes a process to determine need through comprehensive portfolio evaluations subject to established cost containment principles.[11] And yet, PG&E seeks authority to procure resources that would constitute 67-99% of its needs over the next 15 years[12] outside of that proceeding. Permitting consideration of the application in this manner would be detrimental to all ratepayers and the Commission because it would deprive the Commission of the vetting and scrutiny applied in those processes. The Commission should not allow PG&E to circumvent these processes.

3. PG&E's Proposed Energy Efficiency Procurement In Tranches 1 And 2 Is Inconsistent With Public Utilities Code Section 454.5(B)(9)(C) And The Commission's Energy Efficiency Policy

The energy efficiency procurement proposed by PG&E in Tranches 1 and 2 relies on the Program Administrator Cost ("PAC") cost-effectiveness test to determine cost-effectiveness and funding eligibility. The Energy Efficiency Policy Manual adopted by the Commission

[8] R.16-02-007, p. 25.

[9] *Id.*

[10] *Id.*

[11] Cal. Pub. Util. Code § 454.5

[12] PG&E Testimony for Application (A.16-08-006), at pp. 3-8 and 3-9.

determined that the Total Resource Cost ("TRC") test is the appropriate "primary indicator of cost effectiveness.[13]" The PAC represents a much lower threshold to support cost-recovery. The Commission has litigated the matter of which cost-effectiveness test is appropriate in numerous proceedings, spanning multiple decades. At the moment, this issue is being litigated in the Energy Efficiency proceeding.[14] PG&E's application should be consistent with the existing Commission policy.

Further, state law already requires PG&E to meet its unmet energy needs through all available energy efficiency and demand reduction resources that are cost-effective, reliable, and feasible.[15] To enforce this requirement, the Commission opened an Energy Efficiency proceeding to determine the available potential for energy efficiency, provide funding to meet that potential, and processes to evaluate, measure, and verify those actions. The Commission should not allow PG&E to circumvent that process and obtain unique cost-effectiveness protocols in a one-off application.

4. PG&E's Procurement And Cost-Recovery Proposals Are At Odds With California Law That Grants Ccas The Authority And Responsibility To Procure Generation On Behalf Of Their Customers.

PG&E is requesting authority to procure more renewable resources than is required by California's Renewable Portfolio Standard ("RPS").[16] However, PG&E seeks to recover all its RPS procurement costs from now through 2045 through a *Clean Energy Charge* on a non-bypassable basis. This means that the charge would apply to all load that has not departed by the date the Commission approves PG&E's application.[17] In other words, all load that departs after

[13] CPUC Energy Efficiency Manual, Version 5, p. 17.

[14] R.13-11-005.

[15] Cal. Pub. Util. Code § 454.5(b)(9)(C).

[16] Cal. Pub. Util. Code § 399.15(b)(2)(B).

[17] PG&E Testimony for Application (A.16-08-006), at p. 6-4.

such approval would be burdened with a massive level of non-bypassable charges that extend nearly 30 years into the future. This outcome would unlawfully infringe upon the ability of CCAs to control procurement for their customers and result in anti-competitive impacts for CCAs.

This outcome is at odds with California law, which authorizes CCAs to procure resources for their customers, provided that bundled customers remain indifferent. As noted in Cal. Pub. Util. Code § 366.2(a)(5)

> A community choice aggregator shall be solely responsible for all generation procurement activities on behalf of the community choice aggregator's customers, except where other generation procurement arrangements are expressly authorized by statute.

It is also at odds with the well-established indifference principle.[18] The Legislature has gone to great lengths to clarify that costs should not shift between unbundled and bundled ratepayers. PG&E has admitted that Diablo Canyon is uneconomic. The Commission should not be swayed by unjustified statements related to "systemwide benefits."

San Francisco appreciates PG&E's desire for a generating portfolio comprised of at least 55% RPS compliant resources by 2030, but PG&E should not be allowed to achieve this goal by improperly imposing additional costs on departing load. Much of the charges would be for procurement that PG&E will be required to make anyway in order to meet its mandated 50% RPS requirement by 2030. CCAs should be left to achieve their own greenhouse gas objectives without regard to PG&E's greenhouse gas or RPS goals. It is noteworthy that unlike PG&E, CCAs cannot achieve their greenhouse objectives by imposing non-bypassable charges on

[18] *See e.g.* Cal. Pub. Util. Code § 365.2 which provides that "The commission shall also ensure that departing load does not experience any cost increases as a result of an allocation of costs that were not included on behalf of the departing load."

bundled customers, even though all customers benefit from the resulting greenhouse gas reductions.

D. PG&E Bears The Burden Of Proof Because Its Application Is Not A Settlement Proposal As Specified In The Commission's Rules

In its application, PG&E admits that its "Joint Proposal" is not a "settlement agreement" as that term is used in the Commission's Rules.[19] As such, PG&E bears the burden of proving that the requested rates are "just and reasonable."[20] As discussed above, there are many questions that must be resolved before the Commission can make such a finding, including the fact that the Application is duplicative of proceedings already taking place at the Commission.

In addition, the San Francisco notes that PG&E's "Joint Proposal" is not binding upon the Commission. Even though the "Joint Proposal" was developed though a settlement with other parties, PG&E's commitments to procure resources through various tranches are not binding on this Commission. The Commission should exercise its independent judgment to determine whether this application is timely, the proposed rates are just and reasonable and whether the activities proposed are ripe for consideration.

E. PG&E's Proposed Schedule Is Entirely Too Expedited

PG&E's procedural proposal is unreasonable given the magnitude of the request and the substantial nature of the issue presented. PG&E seeks approval of billions of dollars in cost recovery, authority to retire the California grid's largest resource, develop an entirely new energy efficiency protocol, undertake an all-source RFO outside of the LTPP/IRP, and set a new RPS goal. PG&E hopes to accomplish this in less than one year.

While San Francisco agrees that evidentiary hearings are necessary, given the scope and importance of this proceeding. However, the Commission should develop a procedural schedule

[19] PG&E Application, Ch. 1., Attachment A-10).

[20] Cal. Pub. Util. Code § 451.

with an eye towards having a robust discussion. To do so, parties must have adequate time to retain experts, evaluate PG&E's proposal, undertake discovery and prepare testimony.

PG&E proposes that the Office of Ratepayer Advocates and intervenor testimony be served in late October.[21] San Francisco believes that ORA and intervenors should at a minimum have until spring of 2017 to submit their testimony, and the rest of the schedule should flow from that point.

F. Service List

San Francisco requests that the following person be added to the service list under party status:

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[21] Application at 18

G. Conclusion

The Commission should entertain PG&E's proposal to close Diablo Canyon but reject its request that the Commission authorize advance procurement to replace the plant and approve associated cost recovery outside of the Commission's on-going Integrated Resource Planning and Energy Efficiency proceedings. Moreover, the Commission should afford intervenors additional time to prepare and file testimony in this proceeding.

Dated: September 15, 2016

Respectfully submitted,

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